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In re application of:

Hans Josef RINNINGER

Appl. No.: 09/826,414

Confirmation No.: 5027

Filing Date: April 5, 2001

For: SHAPED PAVESTONE

Art Unit: 3673

Examiner: R. Addie

Atty. Docket No.: 31530-171041

Customer No.



26694

PATENT TRADEMARK OFFICE

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**ARGUMENTS FOR INTERVIEW (SUBMITTED BY FACSIMILE)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

## Formal Matters

In the above identified application there are two claims number 10 which resulted from the Applicant submitting new claims 10 and 11 in the Amendment filed April 5, 2001, whereas there already was a claim 10 in the application which the Applicant's attorney understood to have been canceled. To solve this problem, it will be proposed that original claim 10 be canceled and that new claims 10 and 11 filed in the Amendment dated April 5, 2001 be renumbered as claims 11 and 12.

In response to the drawing objection as not showing a wedge shape supplementary block and also to overcome the rejection under 35 U.S.C. §112 based on

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the Applicant's use of the term "wedge shape", the Applicant proposes to cancel "to form a wedge shape" at the end of new claim 10 to be renumbered as claim 11.

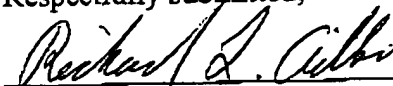
With respect to the Examiner's objection to the language of claim 4, the Applicant will contend that the recitation in claim 4 of "a one-piece block which is square in plan view and with dimensions of four cubes with the size of the first mentioned cube lying beside one another" is supported by the block shown in Figure 3 and that the language "beside one another" does not require that the cubes be laid out in a line but can be laid out in a square as shown in Figure 3.

At the interview, the Applicant proposes to argue that Rinninger does not anticipate claims 1-3 and 5-9 because the Rinninger patent does not disclose a molded concrete block which has approximately a cube shape. The Examiner has recognized that the Rinninger blocks have a shorter height but contends that the square block 2, shown in Figures 2a and 2b is approximately a cube. The Applicant's position will be that the Rinninger block is not approximately a cube but that it is in the shape of a slab as shown in Figure 2b of the Rinninger patent and as described in column 3, lines 30-40, of the Rinninger patent, where it is stated that the horizontal dimensions of the square slab shown in Figures 2a and 2b is 178 mm and that the height is 70 mm. Thus, the height of the square slab in the Rinninger patent is less than half of the horizontal dimensions. The word "approximately" as held in *Quantum Corporation v. Rodime, PLC*, 36 USPQ 2<sup>nd</sup> 1162, 1166 (CAFC 1995), is interpreted as meaning "reasonably close to." The square slab shown in the Rinninger patent is not reasonably close to a cube. The Applicant's invention, by paving the stones approximately in the form of cubes with at least one face having a rounded portion, i.e. in the form of a clothoid curve, enables the Applicant's

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paving stones to produce a variegated surface pattern with a level surface when the stones are laid on a level bed, such as shown in Figure 4 of the application. The variegated pattern can be achieved with only one stone shape because the stone shape is approximately that of a cube allowing the single stone shape to be laid in different orientations.

Respectfully submitted,



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DATE: April 23, 2002CLIENT/MATTER NUMBER: 31530-171041

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## Message:

Re: Application of H. RINNINGER; Serial No. 09/826,414, Filed 4/5/2001  
For: Shaped Pavestone